IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND SEVEN

PRESENT
THE HON'BLE MR JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.18933 of 1998

Between:
C.Subrahmanya Reddy

..... PETITIONER

AND
Canara Bank, rep. by its Chairman and
Managing Director, J.C.Road, Bangalore-2
and another

.....RESPONDENTS

THE HON'BLE MR JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.18933 of 1998

ORDER:

Heard Sri Addepalli Suryanarayana, for the respondent Bank.

The petitioner has joined the service of the respondent-Canara Bank on 10.05.1972 and served till he retired from service on 39.09.1997. It is his case that prior to joining the service of the respondent-Bank, he worked with the Indian Air Force between 07.09.1957 to 11.08.1967, for nearly 10 years. The petitioner now seeks a direction to the respondent-Bank to count the service rendered by him in the Indian Air force to the service rendered by him in the respondent-Bank, for purpose of pension.

It is not in dispute that the respondent-Bank has adopted Pension Scheme and for regulating the same, the Canara Bank (Employees') Pension Regulations, 1995 have been framed, after obtaining the sanction of the Central Government and in consultation with the Reserve Bank of India. These regulations deal with the method and manner in which the pension is to be settled. The expression "qualifying service" has been defined in Regulation-2(w), which means the service rendered while on duty or otherwise which shall be taken into account for the purpose of pension under these regulations. Regulation-3 has dealt with the applicability of these regulations and it specifically says that all

such employees who are in service of the Bank on or after 1st day of January, 1986 are entitled to be covered by the Pension Scheme. Thus, the petitioner is eligible to seek pension in terms of these regulations.

Qualifying service and the commencement of such qualifying service have been dealt with in the following manner in Regulations-14 and 15:

> "**Qualifying Service:-** Subject to the other conditions contained in these regulations, an employee who has rendered a minimum of ten years of service in the Bank on the date of his retirement or the date on which he is deemed to have retired shall qualify for pension."
>
> "**Commencement of qualifying service:-** Subject to the provisions contained in these regulations, qualifying service of an employee shall commence from the date he takes charge of the post to which he is first appointed on a permanent basis."

A perusal of Regulations-14 and 15 would make it clear that the minimum required service to be rendered to the Bank for one to become eligible to receive pension is ten years of service, which shall commence from the date he takes charge of the post to which he is appointed on a permanent basis in the Bank.

Regulations-16, 17, 18 and 19 dealt with in detail as to which kinds and types of periods of service that would count towards the qualifying service. Regulation-20 dealt with that part of the past service, which has been rendered in the erstwhile bank that would count towards the qualifying service. Thus, Regulation-20, is therefore, not attracted in the case of the petitioner, as he had not rendered any past service with any other bank prior to his joining the service of the Canara Bank in 1972. Therefore, Regulation-24, which dealt with the Military Service, has got to be understood in the afore mentioned context.

Regulation-24 reads as under:

> "**Military Service:-** An employee who has rendered military service before appointment in the Bank shall continue to draw the military pension, if any, and military service rendered by the employee shall not count as qualifying service for pension."

Regulation-24 certainly comprises of two parts, one dealing with the entitlement of such an employee to receive the military pension, while at the same time, becoming eligible for qualifying to receive pension for the service rendered in the Bank. The second limb is that no part of the military service rendered by the employee shall count towards the length of the qualifying service for purpose of pension to be received from the Bank. Therefore, Regulation-24 authorized such of those personnel who are in receipt of military pension for the services rendered by them for the armed forces of the country, to continue to receive the same.

Normally, no person shall be entitled to receive simultaneously more than one pension. But, however, Regulation-24 has specifically authorized military pension to be received, apart from the pension to be received from the Bank, provided he satisfies the minimum qualifying length of service put in the bank. At the same time, a specific embargo has been contained in Regulation-24, which prohibits the military service rendered by the employee to be counted as qualifying service for purpose of pension.

The reasons are not far to seek. Illustratively put, if an employee has rendered more than ten years of service in any of the armed forces and consequently, either earns a pension or does not earn a pension

there, if he subsequently gets recruited to the service of the bank, but does not render ten years of service to the bank before retires, to enable him to receive pension, if his past service is to be taken into consideration, he would automatically become entitled for payment of pension for, he had already put in ten more years of service to the armed forces. Therefore, the bank has advisedly created the embargo of not counting the services rendered to the armed forces as part of qualifying length of service to the bank for purposes of payment of pension. In other words, unless one renders a minimum of ten years of service to the bank, independent of the 'Military Service', if one can call it appropriately, he does not become eligible and entitled to receive pension and for the service rendered beyond ten years of service, he would be entitled to receive proportionately higher quantum of pension. Hence, question of counting the past service rendered to the armed forces to be counted towards qualifying service for earning pension from the bank does not arise.

There are no pleadings to support the prayer for reading down in the embargo contained in Regulation-24 for counting the past military service towards qualifying service nor was any such attempt made at the bar.

I, therefore, do not find any merit in the writ petition and it is, accordingly, dismissed. In the circumstances, there shall be no order as to costs.

NOOTY RAMAMOHANA RAO,J

Dated:14.11.2007
Dsr